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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re) CASE NO. BK-S-09-32824-RCJ (Lead Case)
ASSET RESOLUTION, LLC,)
Debtor.) Jointly Administered with Case Nos.:
) BK-S-09-32831-RCJ; BK-S-09-32839-RCJ;
) BK-S-09-32843-RCJ; BK-S-09-32844-RCJ;
) BK-S-09-32846-RCJ; BK-S-09-32849-RCJ;
) BK-S-09-32851-RCJ; BK-S-09-32853-RCJ;
) BK-S-09-32868-RCJ; BK-S-09-32873-RCJ;
) BK-S-09-32875-RCJ; BK-S-09-32878-RCJ;
) BK-S-09-32880-RCJ; BK-S-09-32882-RCJ
)
) Chapter 7

Affects:)
<input type="checkbox"/> All Debtors)
<input checked="" type="checkbox"/> Asset Resolution, LLC, 09-32824)
<input type="checkbox"/> Bundy 2.5 Million SPE, LLC, 09-32831)
<input type="checkbox"/> Bundy Five Million SPE, LLC, 09-32839)
<input type="checkbox"/> CFP Anchor B SPE, LLC, 09-32843)
<input type="checkbox"/> CFP Cornman Toltec SPE, LLC, 09-32844)
<input type="checkbox"/> CFP Gess SPE LLC, 09-32846)
<input type="checkbox"/> CFP Gramercy SPE, LLC, 09-32849)
<input type="checkbox"/> Fiesta Stoneridge, LLC, 09-32851)
<input type="checkbox"/> Fox Hills SPE, LLC, 09-32853)
<input type="checkbox"/> HFAH Monaco SPE, LLC, 09-32868)
<input type="checkbox"/> Huntsville SPE, LLC, 09-32873)
<input type="checkbox"/> Lake Helen Partners SPE, LLC, 09-32875)
<input type="checkbox"/> Ocean Atlantic SPE, LLC, 09-32878)
<input type="checkbox"/> Shamrock SPE, LLC, 09-32880)
<input type="checkbox"/> 10-90 SPE, LLC, 09-32882)

**REPLY IN SUPPORT OF OBJECTION
TO CLAIMS 13-1 AND 13-2 OF THE
INTERNAL REVENUE SERVICE**

Date: February 22, 2021
Time: 10:00 a.m.
Judge: Hon. Robert C. Jones

1 By its Proof of Claim 13-2, the IRS asserted claims for 2008 and 2009 unpaid FICA taxes.
2 With his objection, the trustee submitted the declaration of Stacy Chiang, dkt. no. 3556, one of the
3 estate's accountants, in which she declared that her review of the debtor's records established that
4 the debtor had no employees in either tax year and therefore no FICA tax liability. In its response to
5 the trustee's objection, dkt. no. 3605, the IRS conceded the objection as to tax year 2009, except for
6 the asserted penalty, but continued to assert a claim for tax year 2008. The response, however,
7 simply referenced, but did not attach, a 2008 return, and a cryptic "transcript" which simply stated
8 an amount due, with no supporting documentation.

9 As is explained in the Declaration of Jonathan S. Dabbieri, served and filed concurrently
10 herewith, the estate's accountants subsequently located in the debtor's records an amended 2008 tax
11 return which had been prepared, prepetition, by Asset Resolution's accountants. The amended return
12 reflected that no tax was due for 2008, however it is unclear if the amended return was filed with the
13 IRS. The estate's accountants reviewed (not in the technical sense used by an accountant) the
14 amended return and based upon it and their review of the debtor's books and records, prepared and
15 filed an amended return. That return is currently being processed by the IRS. A copy of the filed
16 amended return is attached to Mr. Dabbieri's declaration.

17 Although a proof of claim is *prima facie* evidence of the claim's validity, once an objection
18 which contains some controverting evidence is made to the claim, the burden of proof shifts back to
19 the claimant, who bears the ultimate burden of proving the claim's validity by a preponderance of
20 the evidence. *Litton Loan Servicing v. Garvida (In re Garvida*, 347 B.R. 697, 704 (9th Cir. BAP
21 2006). Here, the IRS has presented no evidence contesting the detailed review of the debtor's
22 records and prepared, but perhaps not filed, amended return, all of which culminated in the
23 accountants' conclusion that no tax is due for 2008 and their preparation and filing of an amended
24 return reflecting this conclusion.

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The IRS bears the ultimate burden of proof in establishing the validity of its claim. Its proof falls entirely short of satisfying this burden and the objection to claim 13-2 should be sustained. Alternatively, the objection hearing should be continued to permit the IRS to continue processing the amended return.

Dated: February 17, 2021

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